

AMENDED IN ASSEMBLY MAY 28, 2008

AMENDED IN ASSEMBLY MAY 8, 2008

AMENDED IN ASSEMBLY MAY 1, 2008

AMENDED IN ASSEMBLY APRIL 22, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 3011**

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**Introduced by Assembly Member Huffman**

February 22, 2008

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An act to amend Section 2891 of the Public Utilities Code, relating to telephone records.

### LEGISLATIVE COUNSEL'S DIGEST

AB 3011, as amended, Huffman. Telephone records: subscriber information.

~~(1) Existing~~

*Existing* law prescribes the circumstances under which telephone corporations may release information regarding residential subscribers without their consent in writing. Existing law requires the telephone corporations to inform a residential subscriber regarding the identity of each person or corporation to ~~whom~~ *which* the information has been released, upon written request.

This bill would extend these protections to apply to all noncommercial subscribers and create additional exceptions related to the delivery of mobile telephony service to a noncommercial individual subscriber. *The bill would authorize a telephone corporation to share CPNI, as defined, of a mobile telephony services subscriber with its agents or affiliates, as defined, that provide communications-related services, as*

*defined, for purposes of marketing communications-related services to that subscriber, if the telephone corporation obtains the subscriber's express written consent or the telephone corporation obtains the federal opt-out approval, as defined, of the subscriber.*

~~(2) The California Constitution declares that all people are by nature free and independent and have inalienable rights, including privacy.~~

~~This bill would declare the intent of the Legislature to enact legislation to clarify that the inalienable right to privacy and existing state statutory provisions that protect the privacy of calling information and financial information of landline telephone subscribers also apply to mobile telephony service providers, while ensuring that these protections are not prohibited by federal protections for customer proprietary network information.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2891 of the Public Utilities Code is  
2 amended to read:

3 2891. (a) No telephone or telegraph corporation shall make  
4 available to any other person or corporation, without first obtaining  
5 the noncommercial subscriber's consent, in writing, any of the  
6 following information:

7 (1) The noncommercial subscriber's personal calling patterns,  
8 including any listing of the telephone or other access numbers  
9 called by the noncommercial subscriber, but excluding the  
10 identification to the person called of the person calling and the  
11 telephone number from which the call was placed, subject to the  
12 restrictions in Section 2893, and also excluding billing information  
13 concerning the person calling which federal law or regulation  
14 requires a telephone corporation to provide to the person called.

15 (2) The noncommercial subscriber's credit or other personal  
16 financial information, except when the corporation is ordered by  
17 the commission to provide this information to any electrical, gas,  
18 heat, telephone, telegraph, or water corporation, or centralized  
19 credit check system, for the purpose of determining the  
20 creditworthiness of new utility subscribers.

21 (3) The noncommercial services that the subscriber purchases  
22 from the corporation or from independent suppliers of information

1 services who use the corporation's telephone or telegraph line to  
2 provide service to the noncommercial subscriber.

3 (4) Demographic information about individual noncommercial  
4 subscribers, or aggregate information from which individual  
5 identities and characteristics have not been removed.

6 (b) Any noncommercial subscriber who gives his or her written  
7 consent for the release of one or more of the categories of personal  
8 information specified in subdivision (a) shall be informed by the  
9 telephone or telegraph corporation regarding the identity of each  
10 person or corporation to whom the information has been released,  
11 upon written request. The corporation shall notify every  
12 noncommercial subscriber of the provisions of this subdivision  
13 whenever consent is requested pursuant to this subdivision.

14 (c) Any noncommercial subscriber who has, pursuant to  
15 subdivision (b), given written consent for the release of one or  
16 more of the categories of personal information specified in  
17 subdivision (a) may rescind this consent upon submission of a  
18 written notice to the telephone or telegraph corporation. The  
19 corporation shall cease to make available any personal information  
20 about the subscriber, within 30 days following receipt of notice  
21 given pursuant to this subdivision.

22 (d) This section does not apply to any of the following:

23 (1) Information provided by noncommercial subscribers for  
24 inclusion in the corporation's directory of subscribers.

25 (2) Information customarily provided by the corporation through  
26 directory assistance services.

27 (3) Postal ZIP Code information.

28 (4) Information provided under supervision of the commission  
29 to a collection agency by the telephone corporation exclusively  
30 for the collection of unpaid debts.

31 (5) Information provided to an emergency service agency  
32 responding to a 911 telephone call or any other call communicating  
33 an imminent threat to life or property.

34 (6) Information provided to a law enforcement agency in  
35 response to lawful process.

36 (7) Information which is required by the commission pursuant  
37 to its jurisdiction and control over telephone and telegraph  
38 corporations.

(8) Information transmitted between telephone or telegraph corporations pursuant to the furnishing of telephone service between or within service areas.

(9) Information required to be provided by the corporation pursuant to rules and orders of the commission or the Federal Communications Commission regarding the provision over telephone lines by parties other than the telephone and telegraph corporations of telephone or information services.

(10) The name and address of the lifeline customers of a telephone corporation provided by that telephone corporation to a public utility for the sole purpose of low-income ratepayer assistance outreach efforts. The telephone corporation receiving the information request pursuant to this paragraph may charge the requesting utility for the cost of the search and release of the requested information. The commission, in its annual low-income ratepayer assistance report, shall assess whether this information has been helpful in the low-income ratepayer assistance outreach efforts.

(11) Information provided in response to a request pursuant to subdivision (a) of Section 530.8 of the Penal Code.

(12) Information required to deliver mobile telephony service to the noncommercial individual subscriber.

(13) Information required during a customer-initiated transaction to effectuate a change in mobile telephony service of the noncommercial individual subscriber.

*(e) (1) For purposes of this subdivision, the following terms have the following meanings:*

*(A) "Affiliate" has the same meaning as defined in Section 153 of Title 47 of the United States Code.*

*(B) "Communications-related services" has the same meaning as defined in Section 64.2003(e) of Title 47 of the Code of Federal Regulations.*

*(C) "CPNI" means customer proprietary network information as defined in Section 222(h)(1) of Title 47 of the United States Code.*

*(D) "Federal opt-out approval" means the "opt-out approval" method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI adopted by the Federal Communications Commission in Subpart U (commencing with 64.2001) of Part 64 of Title 47 of the Code of Federal Regulations.*

1     (2) *Subject to obtaining the express written consent or federal*  
2 *opt-out approval of the subscriber, a telephone corporation may*  
3 *share CPNI of a mobile telephony services subscriber with its*  
4 *agents and affiliates that provide communications-related services*  
5 *for the purpose of marketing communications-related services to*  
6 *that subscriber.*

7     ~~(e)~~

8     (f) Every violation is a grounds for a civil suit by the aggrieved  
9 noncommercial subscriber against the telephone or telegraph  
10 corporation and its employees responsible for the violation.

11     ~~(f)~~

12     (g) For purposes of this section, “access number” means a telex,  
13 teletex, facsimile, computer modem, or any other code which is  
14 used by a noncommercial subscriber of a telephone or telegraph  
15 corporation to direct a communication to another subscriber of the  
16 same or another telephone or telegraph corporation.

17     ~~SEC. 2. It is the intent of the Legislature to enact legislation~~  
18 ~~to clarify that the inalienable right to privacy and existing state~~  
19 ~~statutory provisions that protect the privacy of calling information~~  
20 ~~and financial information of landline telephone subscribers also~~  
21 ~~apply to mobile telephony service providers, while ensuring that~~  
22 ~~these protections are not prohibited by federal protections for~~  
23 ~~customer proprietary network information.~~